

**“This project has received funding from the
European Union’s Horizon 2020 research and innovation
programme under the Marie Skłodowska-Curie grant agreement No 654925”.**

Humboldt University Berlin, 2017

**EUBS implementation from a comparative perspective:
A chance for increasing the EU's legitimacy.
*The Danish and the Italian Systems.***

Tania Bazzani – Humboldt-Universität zu Berlin

Article published in ***Economia & lavoro***, n. 1/2017

1. Introduction

The article aims at providing specific remarks for implementing a European Unemployment Benefit Scheme (EUBS) in the EU Member States. In doing this, this contribution highlights the potential role for EUBS in helping EU institutions and employment policies to gain legitimacy in the eyes of the European citizens. This topic appears particularly relevant after Brexit, and should not be ignored.

Without delving into the definitions of “legitimacy” offered by the different legal theories¹, in this contribution 'legitimacy' is intended as the capacity of institutions – such as the State or the EU – to respond to their citizens' needs, and in particular their needs for unemployment benefits (UBs), unemployment assistance and unemployment benefits' activation policies¹.

1 The proposed definition seems to be coherent with Scharpf's idea of the end of the 90ies to maintain welfare state goals in Europe – nevertheless the increasing international economic competition - as an opportunity to regain both European policy effectiveness and legitimacy: F. W. Scharpf, *Governing in Europe: Effective and democratic?*, Oxford/New York, Oxford University Press, 1999.

With regard to legitimacy as the capacity to provide benefits for society: D. Mügge, Limits of legitimacy and the primacy of politics in financial governance, *Review of International Political Economy*, 18 (1), 52-74, 2011.

Concerning the topic “legitimacy” connected with the need of “transparency”: A.C. Cutler, The legitimacy of private transnational governance: Experts and the transnational market for force, *Socio-economic Review*, 8 (1), 157-185, 2010.

Legitimacy as a way to provide arguments to prove that authority is fundamental for a society according to its fundamental values: M. Zürn, *Global governance and legitimacy problems, Government and Opposition*, 39 (2), 260-287, 2004.

See also, e.g.: I. Clark, *Legitimacy in International Society*, New York: Oxford Un. Press, 2005; L. Elliot, Legality and legitimacy: The environmental challenge, in R. Falk, M. Juergensmeyer and V. Popovski (eds.), *Legality and Legitimacy in Global Affairs*, Oxford, Oxford Un. Press, 365-387, 2002.

Specifically on the topic of legitimacy and the EU, e.g.: Di A. Arnall, D. Wincott, *Accountability and Legitimacy in the European Union*, New York, Oxford Un. Press, 2002; K. Lenerts and A. Verhoeven, “Institutional balance as a guarantee for democracy in EU governance” in C. Joerges and R. Dehousse (eds.), *Good Governance in Europe's Integrated Market*, Oxford, Oxford Un.

With regards to a possible EUBS implementation and its potential legitimacy goal, according to the 2012 Four Presidents' Report, the proposal of a shock absorption measure as an EU level insurance-type system aims "to ensure trust in the effectiveness of European and national policies... to protect citizens from the effects of unsound economic and fiscal policies, and to ensure high levels of growth and social welfare"². Social concerns are also taken into account in the 2015 'Five Presidents' Report'³.

Furthermore, in both the Four Presidents' and Five Presidents' Reports the need for greater democratic accountability and legitimacy of EU and euro area countries is highlighted. As a matter of fact, since national welfare policies are being affected by economic competition within an integrated European market, "the responsibility for redistributive policies must be shifted from the national to the European level"⁴. At the same time, we should be aware that the need for legitimacy is also closely linked to controversial achievements within the EU social dimension, at least in times of crisis. In order to deal with this issue, the article proposes to take into consideration two different models, which are sorts of poles apart: the Danish system, which is viewed as a best practice example in labour market policies (LMPs), and the Italian system, which is one of those countries with evident difficulties in providing an adequate protection net and effective activation policies that are addressed to the unemployed. In particular, looking at the Danish system allows us to point out which aspects have played a pivotal role in the achievement of a high level of legitimacy throughout its welfare and activation services: these aspects should be taken into consideration while implementing a EUBS in Member States.

Press, 2002.

- 2 Four Presidents' Report, Towards a Genuine Economic and Monetary Union, 2012, p. 3, 11. Some scholars think that the importance of fiscal policy in absorbing regional shocks is often over-estimated, such as in D. Gros, A Fiscal Shock Absorber for the Eurozone? Insurance with Deductible, *Interconomics* n. 4, 2014. In other scholars' opinion a legislative proposal would need more work than those carried out until now to face still open issues, such as e.g. the moral hazard risk: S. Dullien, The Macroeconomic Stabilisation Impact of a European Basic Unemployment Insurance Scheme, *Interconomics* n. 4, 2014, p. 189-193. In any case, several are the proposals and ideas on the implementation of a EUBS: e.g. N. Carnot, P. Evans, S. Fatica, and G. Mourre, "Income insurance: a theoretical exercise with empirical application for the euro area", *European Economy Economic Papers*, No. 546, 2015; M. Beblavý, D. Gros and I. Maselli, "Reinsurance of National Unemployment Benefit Schemes", CEPS Working Document No. 401, Brussels, 2015; A. Brandolini, F. Carta and F. D'Amuri, A feasible unemployment-based shock absorber for the euro area, *Questioni di Economia e Finanza*, No. 254, 2014; Enderlein, H., L. Guttenberg and J. Spiess, *Blueprint for a Cyclical Shock Insurance in the Euro Area*, Paris: Notre Europe, 2013.
- 3 Five Presidents' Report, Completing Europe's Economic and Monetary Union, 2015.
- 4 F. W. Scharpf, Economic integration, democracy and the welfare state, *Journal of European Public Policy*, 4, 1, p. 18-36, 1997, p. 24

At the same time, an analysis of the Italian system might help us to understand whether the legitimacy goal could be reached through EUBS implementation in a state with peculiar problems in LMPs, while highlighting practical issues that may need dealing with.

Thus, on the one hand the proposed methodology aims to show the decisive elements in Denmark gaining legitimacy in the field of unemployment benefits/activation policies, and to highlight possible connections with other fields - e.g. macroeconomic policies, cultural aspects, etc. - while on the other, an analysis of the Italian system reveals possible EUBS implementation difficulties; these could impact its legitimacy by EU institutions and should therefore be pointed out.

Within this perspective, my research focuses on the positive and negative aspects to be taken into consideration along the path towards the introduction of an automatic stabilizer at European level, and highlights those EUBS-implementation findings, which could be relevant for its success.

The article is organised in three parts: (i) analysis of the Danish model and its legitimacy goal; (ii) remarks about implementation of a EUBS within the Italian system, and (iii) conclusions.

2- EUBS implementation through the lenses of the Danish system

2.1. Legitimacy: the EUBS project and the Danish paradigm

Legitimacy is an unavoidable aspect that must be taken into consideration by EU institutions, with Brexit offering a particularly relevant case in point.

In this regard, there is a lesson to be learnt from Denmark, where domestic institutions appear to be legitimate/justified in front of the citizens: as a matter of fact, the Danish system does not just provide a strong social protection net, but its unemployment rate is also one of the lowest in the EU. Here citizens' participation in political life is made possible thanks to both a high unionization and a strong role of trade unions in policy making: political and social conflicts are low⁵.

Thus, the Danish system and its milestone developments provide a good case study in how a high level of citizens' protection could be achieved.

5 OECD Reviews of Regulatory Reform: Regulatory Reform in Denmark 2000, OECD Publishing, 2000, p. 15.

At the same time, in analysing the Danish model one should note that some years ago the EU had launched the Danish *flexicurity* as a virtuous example for all Member States, however the outcomes of the EU's and those of Denmark's *flexicurity* have been considerably different⁶. Thus, even in the specific field under analysis, i.e. unemployment protection, the Danish paradigm has to be considered in its own complexity, to avoid any misunderstandings. As a matter of fact, the Danish system provides effective stabilisers and has gained legitimacy by ensuring a “high level of growth and social welfare” – in the words of the Four Presidents Report, to describe what should be the goal of a EUBS. This aspect should be considered in a EUBS-implementation, especially because the Five Presidents’ Report still supports *flexicurity* as a valid strategy to follow, ignoring the scarce security outcomes that have been achieved⁷.

Indeed, through its solid protection and labour market system Denmark has been able to gain high levels of legitimacy: 'full employment' is a shared political goal, flexibility is possible because of high security (i.e. the Danish flexicurity)⁸, and the system as a whole is based on the collective dimension of society and on the trust among its people⁹. Within this setting, a pivotal role¹⁰ is played by the balancing of macroeconomic policy priorities with the interests of the social partners.

The 1994 reform¹¹ shaped what scholars consider the successful Danish activation system¹²; such reform is another crucial aspect for consideration when searching for those elements, which helped Denmark to gain legitimacy in the eyes of its citizens.

6 Com (2007) 359 final. On the scarce *flexicurity* outcomes, see e.g. Accompanying Commission Staff Working Document Open, dynamic and inclusive labour markets, SWD (2012) 97 final; Com (2014) 130 final/2.

7 Com (2014) 130 final/2, Annex III: State of play on Flagships initiatives, Annexes to the Communication, Taking stock of the Europe 2020 strategy for smart, sustainable and inclusive growth.

8 G. Färm, H. Jørgensen, P. Palshøj, The story of active societies based on welfare and justice, Nordicmodel.info, 2006, <http://s-dialog.dk/default.aspx?site=nordicmodel&func=article.view&id=161473>

9 P. Flaschel, A. Greiner, S. Lichtenberg, ‘Labor Market Institutions and the Role of Elites’, *Flexicurity Societies, Review of Political Economy*, 24, 1, 2012, p. 103-129; p. 104.

10 A. Tangian, ‘Not for bad weather: *flexicurity* challenged by the crisis’, ETUI Policy Brief, European Economic and Employment Policy, Issue 3/2010, <https://www.etui.org/Publications2/Policy-Briefs/European-Economic-Employment-and-Social-Policy/Not-for-bad-weather-flexicurity-challenged-by-the-crisis>, p. 2.

11 M. Rosholm, M. Svarer, ‘The Threat Effect of Active Labour Market Programmes’, *The Scandinavian Journal of Economic*, 110, 2, 2008, p. 385-401.

12 H. Jørgensen, Danish “flexicurity” in crisis – or just stress-tested by the crisis? in Report to the Friedrich Ebert Foundation, 2010; W. Eichhorst, R. Konle-Seidl, ‘The interaction of labor market regulation and labor market policies in welfare state reform’, *Working Paper IAB discussion paper*, 19, 2005, <http://www.econstor.eu/bitstream/10419/31892/1/503519553.PDF>

The reform established the rights and obligations of unemployed people¹³ and modified both the content and the steering system of LMP¹⁴. Unemployment schemes could be offered through *individual action plans* shaped around the individual's needs of the unemployed, tailored-made initiatives, efficient public employment services, and local and regional labour markets.

Therefore, while on the one hand the Danish UB system requires beneficiaries to cope with specific activation duties, on the other it is not exclusively linked to a *quid pro quo* agreement with the beneficiaries¹⁵.

Indeed, the Danish workfare has been defined “offensive” to stress the peculiar version that it has been placed in Denmark; in particular, the offensive workfare looks at the activation policies as a way to achieve social integration for those who are out of the labour market¹⁶. Within this framework, the Danish system requires public institutions to play a key role in tackling unemployment, such as in providing strong welfare services and benefits, investing in the public sector, and thus directly creating jobs (30% of the entire Danish workforce is employed by the public sector)¹⁷, in providing effective public employment services to help active people search for work as well as improve their Curriculum Vitae.

Both in the case of insurance benefits and in the case of assistance, beneficiaries are requested to perform specific duties to demonstrate their availability to, and that they are actively seeking, work.

This close link between benefits and activation duties is fully congruent with EU recommendations, dating to the late 1990s, which supported a transition from a

13 J. Kanane, ‘Nordic paths from welfare to workfare: Danish, Swedish and Finnish labour market reforms in comparison’, *Local Economy*, 27, 2012, p. 558 ff., p. 563.

14 W. Eichhorst, R. Konle-Seidl (2005).

15 H. Jørgensen, D. Baadsgaard, I. Nørup, ‘From learning to steering – NPM-inspired reforms of the famous Danish labour market policy illustrated by measurement and organizational recalibration in the employment system’, CARMA, Aalborg University, Conference Paper, Chicago, 15-16, May 2009, <http://vbn.aau.dk/files/19167298/Chicago09.doc>, p. 5; K. Ketscher, Contrasting legal concepts of active citizenship – Europe and the Nordic countries, in B. Hvinden and H. Johansson (eds.), *Citizenship in Nordic Welfare States – Dynamic of choice, duties and participation in a changing Europe*, New York, Routledge, 2007, p. 146.

16 J. Torfing, Workfare with welfare: Recent reforms of the Danish welfare state, *Journal of European Social Policy*, 9, 1999, p. 5 ff. See also T. Bredgaard, The question for the Holy Grail. The Danish Labour Market Strategy of the 1990s, *Communication Paper (N. 175) – Poster Session IIRA 6th European Congress*, Oslo, 25-29 June 2001, CARMA, Aalborg University, http://www.ibrarian.net/navon/paper/THE_QUEST_FOR_THE_HOLY_GRAIL.pdf?paperid=3467862

17 <http://www.oecd-ilibrary.org/docserver/download/4215081ec022.pdf?expires=1463072053&id=id&accname=guest&checksum=8B257191307D994EFD4175D8CB6C23E6>

passive to an active society; such a link characterises also the European guidelines in employment¹⁸.

2.2. The protection system as an economic stabiliser

It is generally recognised by scholars that UBs play a crucial role in stabilizing the Danish system in times of crisis, providing at the same time citizens with a valid tool to deal with social impact and thus gaining legitimacy.

But scholar's opinions seem to adopt a complex approach in explaining this aspect. In Jørgensen's opinion, three elements play a crucial role in stabilising the Danish economy: high investments in public sector, high income taxes and high number of people, who are insured against unemployment¹⁹. At the same time, effective stabilisers are the welfare system as a whole and the high social assistance. During the crisis, social partners have also worked to cope with the situation by signing agreements on working time arrangements and wages in order to adapt them – and not to decrease them - to the changed economic circumstances. Besides, Jørgensen believes that the Danish capacity to face the crisis is due to further factors, such as macro-economic and selective LMP initiatives, too. These initiatives have taken place in the last years in financial policy and LMPs. As concerns LMPs, the government favoured vocational training, especially for young people and dismissed people²⁰.

For Tangian the system can be helped to be less dependent to occasional shocks by increasing public investments and public role in the economy²¹.

In Madsen's opinion the high taxation, the strong shocks absorbed in case of unemployment, the activation measures in favour of unemployed people are the automatic stabilisers of the Danish economy. He also believes that policies towards the achievement of full employment have been crucial, such as investments in public fields (infrastructures such as streets, hospitals, etc.), measures to face youth unemployment, etc.²²

18 The Treaty of Amsterdam formally highlighted the need for a "transition from passive measures to active measures". This concept became soon a EU key concept and has been also included in the flexicurity strategy and before in the EU employment guidelines, at least since the Council Resolution of 15 Dec. 1997 on the 1998 employment guidelines.

19 H. Jørgensen (2010), p. 6, 7.

20 Ibidem, p. 7, 8, 10.

21 A. Tangian (2010), p. 7.

22 K. Madsen, Reagire alla tempesta. La flexicurity danese e la crisi, *Diritto delle Relazioni Industriali*, 2011, n. 1, p. 78.

Thus, the Danish system could face the crisis thanks to an economic stabilisation system made by different factors, as above-mentioned. This remark should be pointed out in a EUBS-implementation in order to integrate it with the implementation of further elements.

Besides the strong welfare, a certain policy-making and the social partners' role should be highlighted within a wider picture characterised by specific cultural, economic and legal features.

In order to evaluate the relevance of further profiles of the relationship between a EUBS-implementation and its potential legitimacy function with the Danish system's specific features, it seems to be worth to take into consideration: (i) the legal principles on which the system is based on; (ii) the level of protection that it provides.

2.2.1. Legal principles

The 2012 Four Presidents' Report outlined the need of stabilisation mechanisms in order to reach precise goals, including a "high level of growth and social welfare"²³. Similarly, the 2015 Five Presidents' Report clarified that completing EMU is also a means "to create better and fairer life for all citizens".

If we look at the Danish example we could be inspired in figuring out how a European benefit scheme could potentially develop towards the mentioned high level of welfare with "fairer life" for people.

In order to do that, it seems to be worth to consider the fundamental principles on which the Danish protection net is based.

The second part of article 75 of the Danish Constitution, par. 2, is focused on social protection and entails that social assistance is a public duty to be guaranteed to every person, it is a right recognised on the basis of specific legal requirements, it can imply a primary duty on other individuals²⁴. This part has to be related with par. 1 of the same article, establishing the "right to work" as a right directly related to the public good according to which "efforts shall be made to guarantee work to every able-bodied citizen on terms that will secure his existence"²⁵.

23 Four Presidents' Report, Towards a Genuine Economic and Monetary Union, 2012, p. 3.

24 D. Pieters, The social security systems of the Member States of the European Union, Social Europe Series, 1, 2002, p. 48.

25 Article 75, par. 1, 1953 Danish Constitution

With this regards, the framework drawn by article 75 would be coherent to what is defined as the “self support and self-reliance principle” of each able-bodied individual, upon which the Danish system is built²⁶. This principle involves that every person has to be self sufficient by working and contributing at the system, and complies with her/his duties. This perspective aims at conditions to be created by social policy in order to make the person enjoy her/his rights, to be included in society and be integrated²⁷. Therefore, Danish social protection is oriented to provide people self-help support by promoting an active attitude and not just passive supports. Thus, even if the unemployment protection system, i.e. UBs and assistance, plays a crucial role to stabilise economy in times of crisis, at the same time it is included in a wider picture where activation provides people with possibilities to take part in society.

For this reason a EUBS-implementation should adopt a wide perspective, which is aware of its potential effects on the persons’ life in terms of participation in society, also by ensuring “social cohesion” and “social welfare” mentioned since the 2012 Four Presidents’ Report. This can be done by linking the protective goal with a specific goal of social participation/integration also through activation policies. With this regards, the Four Presidents’ Report considered a matter of priority the promotion of measures to address skills mismatch in the labour market, i.e. in other words activation policies²⁸. Concerning this aspect, László Andor’s proposal is even more precise by affirming: “in any case there would be clear conditionality in terms of job-search and training effort”²⁹.

At the same time, one should be aware of the difficulties to reach social integration/participation by means of strong protection and effective ALMP. As a matter of fact, if we look at the Mediterranean countries such as Italy for example, the achievement of social integration/participation could vary consistently in comparison with the Danish system.

Other aspects should be taken into consideration, too. For example public employment services often address activation initiatives particularly to unemployed

26 Active Social Policy Act, No. 468, 20/05/2016, art. 1, (2) “The purpose of providing financial support is to enable recipients to become self-supporting”: my translation. See: K. Ketscher (2007).

27 J. Goul Andersen, Marginalisation, Citizenship and the Economy: The Capacities of the Universalist Welfare State in Denmark, in E. O. Eriksen, J. Loftager (eds.), *The Rationality of the Welfare State*, Oslo, Scandinavian University Press, 1995, p. 155-202.

28 Four Presidents’ Report, Towards a Genuine Economic and Monetary Union, 2012, p. 3.

29 L. Andor, Basic European unemployment insurance, Speech/14/635, European Commission, 2014, p. 12; L. Andor, Basic European Unemployment Insurance – The Best Way Forward in Strengthening the EMU’s Resilience and Europe’s Recovery, *Interconomics* n. 4, 2014, p. 184 ff.

with strong professional profiles in order to reach easily good performances: this procedure can run the risk to marginalise the weakest unemployed people³⁰.

Consequently, when highlighting the possibility to relate the EUBS implementation with activation duties a complex approach should be adopted.

2.2.2. Level of protection

The hypothesis for a EUBS-implementation should consider that “several EU countries have alternative unemployment assistance benefits for individuals without access to unemployment insurance”³¹. From the one hand, this aspect is relevant because it reveals that unemployment protection systems of Member States are consistently different, and thus the definition of a EUBS will be complicated. From the other hand, thinking about differences among Member States protection systems highlights the potential EUBS role in integrating the national insurance UBs and providing stronger protection, especially for those workers, who remain excluded from the social security net, e.g. often atypical workers. With this regards, there are proposals, which would address EUBS to Member States in specific economic difficulties and others, which would intervene directly in favour of individuals. In any case, if we look at strong welfare system, such as the Danish one, it is evident that a EUBS would just be possible according to a solidarity principle across Member States.

In particular, the Danish system arranges two levels of protections in order to support unemployed people: (i) unemployment insurance benefits, based on a voluntary membership to specific funds³², authorized by the government and representing the 77% of the labour force³³; (ii) assistance, i.e. mean-tested cash-benefits, financed by the social security system, to which people can access for different reasons³⁴.

30 R. Hyman, Il futuro del principio “il lavoro non é una merce” tra mercato e stato sociale, *Diritto delle Relazioni Industriali*, 4, 2007, 988 ff.; J. Kluve, The Effectiveness of European Active Labor Market Policy, *IZA DP*, No. 2018, 2006.

31 I. Esser, T. Ferrarini, K. Nelson, J. Palme, O. Sjöberg, Unemployment Benefits in EU Member State, European Union, 2013, p. 12.

32 Law on Unemployment Insurance, Consolidation Act. No. 832 of 07.07.2015.

33 J. Hendeliowitz, Danish Employment Policy, National Target Setting, Regional Performance Management and Local Delivery, Arbejds Markedstyrelsen, Employment Region Copenhagen & Zealand, The Danish National Labour Market Authority, 2008, <https://www.oecd.org/employment/leed/40575308.pdf>, p. 7.

34 Active Social Policy Act, No. 468, 20/05/2016. K. Madsen, Activation Policy in Denmark, Centre for Labour Market Research, Aalborg University, Conference paper, Korea Labor Institute, Seoul, November 2009, http://vbn.aau.dk/files/18792428/Madsen_Danish_Activation_Policy_Seoul_091009_v2.pdf, p. 5.

This integration between insurance protection and assistance contributes to reach a strong welfare net and, as aforementioned, provide a strong stabiliser.

But the protection net in Denmark is considerable high also because of an entire welfare system ensuring a certain house policy, free of charge services available to citizens, such as health and education, child and elderly care, etc.

If we look at a EUBS-implementation from this perspective, we should consider that the effective level of welfare offered by each Member State – in terms of services, houses possibilities, care services, etc. - could make the difference in the real impact of a EUBS as a economic and social stabiliser. Thus, it seems that an eventual EUBS-implementation should be viewed in a policy mix perspective and introduced together with other aspects³⁵, e.g. the public investments in social housing, renewable energy and transportation, an other eventual measures, etc.

In this way, the EUBS would be a possible way to widen national protection by improving the welfare system as a whole.

3. EUBS-implementation in the Italian system: legitimacy goal dealing with practical issues.

By evaluating the possible EUBS-implementation in the Italian system, here it is meant to provide some remarks in order to focus on domestic legal issues that should be faced and that could therefore affect the legitimacy of the EU institutions. In particular, comments are proposed in relation to selected issues: the EUBS financing, the EUBS amount, the eligible requirements, the level of protection, the exclusion of precarious workers and self-employed, the age, etc.

3.1. Contribution

One crucial issue to cope with a EUBS-implementation regards the way to finance the measure. The 2015 Beblavý, Marconi, Maselli's research mentions possible sources of finance that were suggested by several proposals, such as a payroll tax, a corporate tax, etc.

³⁵ M. Beblavý, G. Marconi, I. Maselli, European Unemployment Benefit Scheme, The rationale and the challenges ahead, European Union, Luxembourg, 2015, p. 4.

Thinking about substitutive contributions – i.e. a payroll tax - in respect to those, which are now paid to finance UBs in Member States can be a very hard option. This option would not be easily accepted by the Italian employers and employees, who are already paying considerable payroll tax for social protection and they probably won't accept a rise.

With this regards, the EUBS financial implementation should look at the Italian case of “ammortizzatori in deroga”, i.e. a kind of public short-time working schemes (public STW schemes). These schemes have been partially financed, for a certain time and in certain cases, through resources of the European Social Fund (ESF) to provide small companies with a level of protection that they did not have before³⁶. This system could be found unequal by big and medium companies, which pay higher contributions to access other schemes, namely the *Cassa Integrazioni Guadagni*, and by those small companies, which decided to pay some specific contributions (bilateral entities' contributions) to access the protection³⁷.

But the European resources involvement made it possible to link these kinds of benefits to specific activation duties³⁸ and widened the categories of beneficiaries³⁹.

3.2. Amount

The reference salary of the Italian main UB, i.e. the Naspi (*Nuova Assicurazione Sociale per l' Impiego*)⁴⁰, refers to the social security taxable base of the last 4 years, divided by the weeks number of contributions and then multiplied by 4,33. If this reference salary is less than € 1.195,00 for the 2015, the Naspi is equal to the 75% of the reference salary. In the case the reference salary was above € 1.195,00, the

36 M. D'Onghia, Misure regionali anticrisi, in www.astrid-online.it, p. 4; M. Barbieri, Ammortizzatori in deroga e modelli di welfare negli accordi Stato-Regioni e Regioni-Parti Sociali, *Rivista Giuridica del Lavoro*, I, 2011, p. 379 ff.

37 F. Liso, *Gli ammortizzatori sociali. Percorsi evolutivi e incerte prospettive di riforma*, in P. Curzio (a cura di) *Ammortizzatori sociali. Regole, deroghe, prospettive*, Cacucci, Bari, 2009, p. 30 ff.

38 D. Garofalo, *Gli ammortizzatori sociali in deroga: dal D.L. n. 185/2008 alla L. 191/2009 (legge finanziaria 2010)*, Milanoforni Assago, 2010.

39 M. D'Onghia, T. Schiavone, *Il complesso quadro normativo in tema degli ammortizzatori sociali e alcune criticità del sistema*, in (a cura di) M. G. Garofalo, G. Leone, *La flessibilità del lavoro: un'analisi funzionale dei nuovi strumenti contrattuali*, Cacucci, Bari, 2009, p. 158.

40 D. Garofalo, Il d.lgs. 4 marzo 2015, n. 55: un primo commento, *RDDS*, n. 2, 2015; P. Bozzao, In nuovi trattamento di disoccupazione: a piccoli passi verso l'Europa, in L. Fiorillo, A. Perulli, (a cura di), *Contratto a tutele crescenti e Naspi*, Torino, Giappichelli, 2015; S. Renga, *Post fata resurgo. La rivincita del principio assicurativo nella tutela della disoccupazione*, LD; M. Cinelli, C. A. Nicolini, *L'attuazione del Jobs Act nei decreti di settembre. Il nuovo assetto delle discipline degli ammortizzatori sociali in costanza di rapporto*, RIDL, 4, 2015.

Naspi corresponds to the 75% of the reference salary, plus, for the amount above € 1.195,00, to the 25% of the difference between reference salary and € 1.195,00. The Naspi maximum ceiling is 1.300 €. From the fourth months of its payment, the Naspi amount reduces to 3% every month.

If we compare the amount recognised in Italy with the Danish case, one should think that in Denmark insurance unemployment incomes amount at the 90% of the last 3 months or 12 weeks' earned wage⁴¹ and the ceiling is around DKK 801 (€ 101) per day for full-time, i.e. it would mean € 2.020 per month⁴². This ceiling is around the double of the Italian Naspi's ceiling: one should consider this difference, which should be also linked to the living costs and to the services provided by the entire welfare states to be properly understood.

Within this picture, proposals about the size of the EUBS are several, but they don't relate this percentage/amount to the living cost and the entire welfare system.

With this regards one should take into consideration the possibility to fill the gap between Member States in terms of amounts by implementing a EUBS, preferably by using eventual criteria that ensure a similar proportionality - among Member States and by looking at best practice examples - to living costs within a decent life perspective by looking at the best practice examples. Thus, economists should help to translate the concept of "decent existence" - which is refereed to social assistance in Article 34 (Social security and social assistance), paragraph 3 of the Charter of the Fundamental Rights of European Union - into adequate indicators.

3.3. Requirements to access

In Italy from the 1st of May 2015 the Naspi substitutes two kinds of UBs, namely the Aspi and mini-Aspi.

Concerning accessible requirements, the introduction of the Naspi has meant an improvement of the protection level because it requests lower requirements than before and allows - in some measure - precarious workers to access protection.

The Naspi requires 13 weeks of contributions in the 4 years before the beginning of the unemployment state and at least 30 days of effective work in the 12 months

41 The 1972 Unemployment Insurance Act (Arbejdsløshedsforsikringsloven) raised the percentage from 80 to 90 of the previous pay: J. Kristiansen, *The growing conflict between European uniformity and national flexibility*, Denmark, Djørf Publishing, 2015, p. 63.

42 J. Hendeliowitz (2008), p. 9; European Commission - Employment, Social Affairs & Inclusion, *Your social security rights in Denmark*, European Union, 2013, p. 27.

before the beginning of the unemployment state. This UB is recognised for a number of weeks, which corresponds to the half of the weeks of contribution of the last 4 years. Thus, the maximum will be two years.

By looking at the Danish system it is possible to highlight that the length of the UBs in this country has been reduced by the 2010 reform⁴³, but a crucial difference with Italy is that Denmark provides assistance – according to specific eligible requirements (means tested) – to the unemployed, who don't access or have finished insurance UBs. Thus, a EUBS implementation in Italy should consider this gap in the protection net.

Moreover, in Denmark self-employers can access both insurance benefits and assistance in case of lack of work. In Italy the protection has been recently introduced for employer-coordinated freelance work⁴⁴, too, but with evident limitations (amounts, resources, etc.).

The Italian lack of assistance for unemployed people seems to be limited by widening the eligible requirements to access the insurance protection: 13 weeks within 4 years, instead of 1 year within the last 3, in Denmark. Nevertheless, the protection net addressed to the unemployed remains insufficient and the gap in the Italian protection net still exists. This aspect brings to wonder which would be the eligible requirements to access the EUBS: will atypical workers – who usually are the workers most affected by short unemployment - have the possibility to access the EUBS? And self-employed persons as well? Will be requested previous contributions? What about the people that will remain outside from the protection? Will be the availability to work a requirement?

According to several proposals the EUBS eligible requirements should be the same in all the euro countries, but I would rather apply different eligible requirements in relation to the specific levels of protection in the Member States⁴⁵ and with the goal of filling domestic gaps in the social security net.

43 The Danish 2010 reform did not just reduced the length of unemployment benefits from 4 to 2, but it also tightened the eligible criteria to access the benefits from 26 weeks of employment for re-qualify for unemployment benefit to 52 in the last three years. Even for the first access 52 weeks are requested (precisely 1.924 hours of work within the last three years).

44 In Italy Law n. 2/2009, further laws in this direction: the last one: Legislative Decree n. 22/2015.

45 M. Beblavý, G. Marconi, I. Maselli (2015), p. 13: they mention the 2013 Pisani-Ferry's proposal.

3.4. Age

In Italy the age has been an important criterion in order to apply for a shorter/longer benefit in the case of different UBs (*indennità di disoccupazione* and *indennità di mobilità*), but now Naspi does not include this aspect⁴⁶. Nevertheless, this criterion has been mentioned for years in several legislative decrees towards a UBs reform. The “graduation principle” has been also viewed as a valid element to consider in the protection system⁴⁷.

Several EUBS hypotheses don’t take into consideration this aspect, perhaps because a EUBS-implementation would be thought to cope with short unemployment. But even in this case, the age aspect should be taken into consideration into the wide picture of those people, who are most affected by unemployment and need to achieve requirements for retirements.

Moreover, EUBS proposals do not deal with the possibility to recognise social contributions to beneficiaries also as valid contributions towards state pension.

This would be a problem especially for aged workers in terms of reaching the requirements to access retirement and should be addressed.

3.5. Managing of resources in providing benefits and activation services

In Italy beneficiaries of UBs have to register with job centres/public employment offices and have to cope with specific activation duties⁴⁸, but the inefficient public employment services make the benefits conditionality ineffective⁴⁹.

46 The unemployed person’s age does not impact on the Danish insurance unemployment benefits. On the contrary, the assistance means-tested benefits are family-based and depend on age, dependent children, period of residence and this applies to any person lawfully resident in Denmark, European Commission - Employment, Social Affairs & Inclusion, Your social security rights in Denmark, European Union, 2013, p. 27.

47 P. Loi, Gli ammortizzatori sociali, in M. Magnani, A. Pandolfo, P.A. Varesi (eds.), *Previdenza, mercato del lavoro, competitività*, Giappichelli, Torino, 2008, p. 217.

48 For the Danish system: Active Employment Act, No. 807, 01/07/2015, Chapters 16 and 17. For the Italian system: article 19, Legislative Decree n. 150/2015.

49 With regard to recent studies in PES and Italian active LMPs: L. Mariucci, P. Bianchi, M. Barbieri, B. Caruso, L. Valente, Tre domande e quattro risposte sul governo del mercato del lavoro, *Lavoro e Diritto*, 2/2016; A. Lassandari, La tutela immaginaria nel mercato del lavoro: i servizi per l’impiego e le politiche attive, *LD*, 2/2016; V. Ferrante, Le politiche attive del lavoro fra decentramento e accentrimento: un dolce girotondo?, *LD*, 2/2016; R. Salomone, Le prestazioni di politica attiva del lavoro al tempo del Jobs Act, *LD*, 2/2016; A. Donini, Effettività dei servizi per l’impiego: forme e garanzie nella ricerca di lavoro, *LD*, 2/2016; A. Sartori, Il Jobs Act e la riforma dei servizi per l’impiego in Italia: finalmente la svolta nel solco dell’Europa?, *RIDL*, 1, 2016; B. Caruso, M. Cuttone, Verso il diritto del lavoro della responsabilità: il contratto di ricollocazione tra

If we think at a EUBS implementation in this Member State, the Italian national social protection institute (INPS) could carry out the payment of the European benefit: as a matter of fact, this institute shows a complex but enough efficient structure.

However the perspective changes with regards to an eventual connection between EUBS and activation duties. Indeed, some aspects are worth to affect an eventual EUBS-implementation: the abovementioned inefficiency of the Italian public employment services in terms of effective activation initiatives⁵⁰; the level of undeclared job⁵¹, according to which a beneficiary could enjoy the benefit and earn money from undeclared activities; the level of corruption⁵²; etc.

Thus, concerning the hypothesis of promoting activation policies by introducing a EUBS, one could support a EU direct managing of the active LMP EUBS-implementation. But this possibility seems to be currently unlikely because of a lack of adequate structures. As an alternative, one should also consider the eventual option to tighten the EU and domestic level by recognising a role in the EUBS-implementation to the networking among Member States' public employment services⁵³. Networking and clear responsibilities, together with a social partners' involvement, should be the possible way to manage the activation process linked to a EUBS-implementation.

Moreover, the Five Presidents' Report mentions the necessity to create by each euro area Member State a national body in charge of tracking performance and policies in the field of competitiveness in order to prevent economic divergence. Similarly, a different national body should be created to supervise the EUBS-implementation in terms of both (i) the EUBS-implementation protection outcomes, i.e. e.g. by verifying

Europa, Stato e Region, WP C.S.D.L.E. "Massimo D'Antona", 283, 2015; M. Cinelli, C.A. Nicolini, L'attuazione del Job Act: le nuove tutele per i disoccupati, RIDL, III, 2015; G. Canavesi, La ricollocazione secondo il Jobs act: dall'attività al contratto?, RDSS, n. 3, 2015; V. Valente, il contratto di ricollocazione, in E. Ghera, D. Garofalo, Le tutele per i licenziamenti e la disoccupazione involontaria nei primi decreti attuativi del Jobs Act 2, Cacucci, Bari, 2015.

50 Please, see note 49. Particular interesting studies for understanding the PES inefficiency are also: F. Liso, Brevi appunti sugli ammortizzatori e sui servizi all'impiego nel Protocollo del 23 luglio 2007, in A. Perulli (eds.), *Le riforme del lavoro. Dalla legge finanziaria 2007 al protocollo sul Welfare*, Halley Editrice, 2007; A. Alaimo, *Il diritto sociale al lavoro nei mercati integrati. I servizi per l'impiego tra regolazione comunitaria e nazionale*, Giappichelli, 2009; F. Liso, Servizi all'Impiego, in EGT, 2007, p. 1-10; P.A. Varesi, Il workfare territoriale, in D. Gottardi, T. Bazzani (eds.), *Il workfare territoriale*, Edizioni Scientifiche Italiane, 2014.

51 <http://www.ilfattoquotidiano.it/2015/07/28/aumenta-il-lavoro-nero-18mila-accertamenti-nel-primo-semestre-2015/1914644/>

52 <http://www.transparency.org/cpi2015>. Transparency is an independent organization providing annually reports on levels of corruption of several States.

53 Decision No 573/2014/EU of the European Parliament and of the Council of 15 May 2014 on enhanced cooperation between Public Employment Services (PES).

if some categories of workers are not included in the protection, and so on, and (ii) the active LMP EUBS implementation.

With regards to the Italian national level, the introduction of a national Agency aiming at coordinate the activation policies could be an opportunity in a future perspective⁵⁴.

4. Conclusions

In conclusion, using a comparative perspective to look at how a EUBS-implementation could help achieve legitimacy within the EU, a number of recommendations can be offered:

A) Danish system:

1) EUBS-implementation should be carried out as a part of a “wider implementation”, i.e. the implementation of further schemes/policies. Indeed similarly to the Danish example, EUBS can only ensure legitimacy, and create trust among people, if it is effectively part of a wider political vision that aims for “high level of... social welfare” (Four Presidents’ Report), and to “create... fairer life for all citizens” (Five Presidents’ Report). Although the flexicurity strategy failed to deliver on such promises, achievement of its goals cannot be postponed any longer.

Similarly, the EUBS can act as an effective stabiliser when part of a wider stabilisation system, i.e. when it is linked to other elements. As a matter of fact, the EUBS can play a crucial role in the social integration/participation of people in society if it is conceived as a means to economically sustain unemployed persons, providing them adequate vocational training, adequate job offers, adequate activation services.

2) “Wider implementation” of the EUBS would mean a close connection with other elements/factors, such as: job creation policies promoted by Member States in both private and public sectors and with particular regards to the public sector, by investing in infrastructures, social services, etc.; effective role of social partners; policy making towards the reinforcement of the Member States' welfare systems, in terms of services and their accessibility (housing public investments, childcare facilities, etc.); effective labour market policies.

3) The Danish example highlights the key role that social partners have been, and are, playing in the domestic labour market.

⁵⁴ Legislative Decree, n. 150/2015.

Thus, a EUBS-implementation should define an effective involvement of social partners, especially as regards the specific domestic implementation (criteria, amount, activation policies, etc.).

B) Possible EUBS implementation in Italy, and possible impact on EU legitimacy:

4) EUBS eligibility requirements should allow for the access of all workers who are not protected in case of unemployment, including those in precarious employment, and the self-employed⁵⁵.

Moreover, EUBS-implementation should consider the recognition of social contributions to beneficiaries also as valid contributions towards state pension.

5) With regards to the financing of the EUBS-implementation, and because of the wide differences among the social security systems of Member States', a substitutive contribution would not be an appropriate financing measure.

In order to finance the EUBS-implementation one could also look at using ESF resources, linking them to activation initiatives (e.g. such as the case of "ammortizzatori in deroga"⁵⁶).

6) In order to establish how EUBS-implementation could effectively impact the system, a process towards convergence, that takes into consideration domestic living costs and the specific welfare context of each Member State, should be promoted. This would enable us to understand whether specific policies/services should be encouraged by the EU, which can make EUBS-implementation effective in terms of adequate protection. It would also enable us to evaluate the impact of the measure in the system as a whole. And as this process could help the weaker euro countries to build a solid economy, it could also prevent moral hazard risks.

8) Implementation of a EUBS could be carried out: 1) in relation to payment of benefits, by national social security institutes; 2) in relation to ALMP initiatives, by the domestic Employment Public Services, and by their European level networks. Implementation should also take advantage of the expertise of local administrations and of networks already existing in the LM: indeed at the local and regional administrative level, a greater capacity to interpret vocational training needs, and a greater affinity to a "social integration" approach⁵⁷ are more likely. At the same time,

⁵⁵ Tax evasion problems should be taken into consideration in the case of self employers in Italy.

⁵⁶ D. Garofalo, *Gli ammortizzatori sociali in deroga: dal D.L. n. 185/2008 alla L. 191/2009 (legge finanziaria 2010)*, Milanoforni Assago, 2010.

⁵⁷ This is true also in countries that are not included in the LMPs best practice examples, but that can

problems such as traditional inefficiency of employment offices, level of corruption and undeclared job phenomenon should be coped by involving EU controlling processes in implementing the EUBS. As recommended in the Five Presidents' Report, on the issue of a Competitiveness Authority, each Member State should decide the exact set-up of a national "Social Authority" that would check on EUBS implementation and its social achievements.